HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No.9054 of 2004

Dated: 24th August, 2005

Between:

1. Smt.V.Swarajya Lakshmi W/o.Late V.Sudershanam & 14 Ors.

…Petitioners

and

1.The Govt. of A.P. rep. by its Prl.Secretary to Revenue

Department, Secretariat, Hyderabad & Ors.

…Respondents

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No.9054 of 2004

ORDER:

This writ petition has been filed by the petitioners, who are 15 in number, assailing the order of the Commissioner, Appeals, office of the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad, passed in Appeal No.Hyd/34/2003.

2. The petitioners are the declarants in C.C.No.253 of 1981 on the file of the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad. One V.V.L.Narasimha Rao had three sons viz., V.Sudershanam, V.Madana Gopala Swamy and V.S.V.Sai. He died in the year 1971 leaving behind his three sons, wife by name V.Tulasamma and a daughter by name Seshaseyanamma. Three sons filed declarations under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short, 'the Act'). On receipt of the verification report from the Enquiry Officer, draft statement under Section 8 (1) and notice under Section 8(3) of the Act were issued determining that the declarants hold an extent of 5,80,028-58 square meters of surplus vacant land in excess of the ceiling limit in Kondapur Village of Serilingampally Revenue Mandal of Rangareddy District. The declarants filed

objections to the verification report. The Special Officer and Competent Authority by order dated 05.06.2003 determined the holdings of the declarants. The operative portion of the order reads as follows:

> "Kondapur village falls within peripheral area of Hyderabad Urban Agglomeration for which exemption to retain the land to an extent of Ac.5.00 in terms of G.O.Ms.No.733, dated 30.10.1988 is in force. Hence, an extent of 20234.30 sq. mtrs. is allowed in terms of said G.O. The remaining area is 5,80,028.58 Sq.Mtrs. – 20,234.30 Sq.Mtrs. = 5,59,794.28 Sq.Mtrs. Thus, the L.Rs. of the declarant as in the foregoing para holds the land to an extent of 5,59,794.28 Sq.Mtrs. in excess of the ceiling limit in Sy.no.195, 200 to 207 of Kondapur Village."

Assailing the order passed by the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad, the declarants filed Appeal No.34 of 2003 before the Commissioner, Appeals, office of the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad. The appellate authority by order dated 26.04.2004 dismissed the appeal while confirming the order of the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad. Hence, this writ petition.

3. Heard *Sri J.V.Suryanarayana*, learned senior counsel appearing for the petitioners and learned Government Pleader for Assignments appearing for the respondents 1 to 4.

4. Learned senior counsel appearing for the petitioners submits that the Special Officer and Competent Authority failed to take note of the fact that certain lands have been purchased by V.V.L.Narasimha Rao under registered sale deed dated 21.08.1961 and as said Narasimha Rao was not alive as on 29.09.1980 i.e. the date on which the Master Plan came to be applied to the lands in question, his Legal Representatives, who are the petitioners herein, are entitled to get their due shares in the property. He further submits that the Special Officer and Competent Authority committed error in granting one unit to all the declarants by treating the entire lands as the self-acquired properties of V.Sudershanam i.e. son of late V.V.L.Narasimha Rao.

5. Learned Government Pleader for Assignments appearing for the respondents 1 to 4 submits that the petitioners failed to file objections to the verification report and therefore, the Special Officer and Competent Authority justified in granting only one unit to the petitioners.

6. As seen from the records the sons of V.V.L.Narasimha Rao viz., V.Sudershanam, V.Madana Gopala Swamy and V.S.V.Sai and his wife-Smt.Tulasamma filed declarations. They also placed on record two registered sale deeds, one is standing in the name of V.V.L.Narasimha Rao and the other is standing in the name of Varikuti Sudarshanam. Since V.V.L.Narasimha Rao was not alive as on 29.09.1980 his Legal Representatives are entitled to claim their respective shares in the properties covered under the document dated 21.08.1961. The Special Officer and Competent Authority failed to take note of the registered sale deeds filed by the petitioners and thereby erred in granting one unit to all the declarants put together. Since the error committed by the Special Officer and Competent Authority is apparent, this is a fit case to exercise jurisdiction under Article 226 of the Constitution of India and set aside the orders passed by the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad as well as the Commissioner, Appeals, office of the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad and remand the matter to the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad for fresh consideration after giving opportunity to all the parties concerned. The Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad is directed to dispose of the matter as expeditiously as possible.

7. Accordingly, the writ petition is allowed. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 24th August, 2005.

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